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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,353	08/22/2003	Richard Westhoff	ASC-058B	8603
51414	7590	02/09/2007	EXAMINER	
GOODWIN PROCTER LLP PATENT ADMINISTRATOR EXCHANGE PLACE BOSTON, MA 02109-2881			QUINTO, KEVIN V	
			ART UNIT	PAPER NUMBER
			2826	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/09/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/646,353	WESTHOFF ET AL.	
	Examiner Kevin Quinto	Art Unit 2826	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 November 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*; 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) 13-53,55-77,79 and 80 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12,54 and 78 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/24/04, 1/20/04, 12/19/03
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 1-12, 54 and 78 in the reply filed on November 14, 2006 is acknowledged.
2. Claims 13-53, 55-77, 79, and 80 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 14, 2006.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-12, 54, and 78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. The term "substantially uniformly" in claim 1 is a relative term which renders the claim indefinite. The term "substantially uniformly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The specification does not cite a tolerance upon which to judge whether or

not threading dislocations are "substantially uniformly" disposed over a surface.

Therefore the metes and bounds for claims 1-12, 54, and 78 are indefinite.

6. Claims 1-12, 54, and 78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The term "substantially relaxed" in claim 1 is a relative term which renders the claim indefinite. The term "substantially relaxed" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The specification does not cite a tolerance upon which to judge whether or not a layer is "substantially relaxed." Therefore the metes and bounds for claims 1-12, 54, and 78 are indefinite.

#### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 3, 4, 5, 8, 9, and 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Christiansen et al. (USPN 6,515,335 B1).

10. So far as understood in claim 1, Christiansen et al. (USPN 6,515,335 B1, hereinafter referred to as the "Christiansen" reference) discloses a structure which meets the claim. Figures 8 and 9 of Christiansen each illustrate a semiconductor structure comprising a first semiconductor layer (70) having a plurality of threading dislocations distributed substantially uniformly across a surface thereof. A compositionally uniform cap layer (80) is disposed over the surface of the first layer (70). The cap layer is substantially relaxed (80).

11. So far as understood in claims 3, 4, and 5, figure 8 of Christiansen shows that a tensilely strained silicon germanium alloy semiconductor layer (90) is disposed over the compositionally uniform cap layer.

12. So far as understood in claims 8 and 9, the compositionally uniform cap layer (80) is made of silicon germanium; both of which are group IV elements.

13. So far as understood in claim 54, the first layer (70) comprises a silicon-on-insulator substrate (10, 20).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Quinto whose telephone number is (571) 272-1920. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sue Purvis can be reached on (571) 272-1236. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KVQ

*Sue h5*  
SUE A. PURVIS  
SUPERVISORY PATENT EXAMINER